

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Closed Captioning and Video)
Description of Video Programming) MM Docket No. 95-176
)
Implementation of Section 305 of the)
Telecommunications Act of 1996)
)
Video Programming Accessibility)

To: The Commission

COMMENTS OF PAXSON COMMUNICATIONS CORPORATION

Paxson Communications Corporation ("Paxson"), by its attorneys, submits herewith its Comments on the FCC's *Further Notice of Proposed Rule Making* regarding the closed captioning of emergency information in video programming.^{1/}

A. Introduction.

Paxson supports the Commission's goal to ensure the video accessibility of emergency information to hearing-impaired viewers. However, its proposal to require real-time captioning of emergency information is not feasible or necessary to achieve that goal. Until real-time captioning becomes widely available, it would not be economically possible or practical for broadcasters and other video programming providers to provide this service. Moreover, the availability of and broadcasters' voluntary participation in the Emergency

^{1/} *Closed Captioning and Video Description of Video Programming, Further Notice of Proposed Rule Making*, MM Docket No. 95-176 (released Jan. 14, 1998) ("*Further Notice*").

Alert System and the FCC's general requirements for the broadcast transmission of emergency information make it completely unnecessary to require real-time captioning.

B. Real-Time Captioning Is Not a Feasible Means of Ensuring Accessibility to Emergency Information.

In its *Report and Order* in this proceeding, the Commission declined to require video program providers to use real-time captioning to close caption video programming.^{2/} The Commission reached this conclusion based on the scarcity of skilled real-time captioners and the cost of providing real-time captioning. *Id.* The Commission also noted that alternative captioning methodologies such as electronic newsroom ("ENR") captioning are available which are easier to implement and would permit broadcasters to caption an increased amount of programming more quickly during the closed captioning transition period. *Id.* The same rationale applies here, and warrants the same conclusion.

If required, real-time captioning is likely to slow rather than facilitate the transition to full captioning. The availability of real-time captioners remains severely limited. As noted by several commenters in the earlier stages of this proceeding, there is a shortage of qualified stenocaptioners and certainly not enough stenocaptioners to serve the entire television industry as well as other video program providers. Because real-time captioning is such a scarce resource, the cost of providing this service remains prohibitively high. Captioning services charge at least \$120 per hour for real-time captioning of station programs. This cost does not include any start-up costs to purchase the necessary equipment

^{2/} *Closed Captioning and Video Description of Video Programming*, Report and Order, MM Docket No. 95-176, ¶ 84 (released Aug. 22, 1997) ("*Report and Order*").

and software (estimated to be approximately \$10,000) or employ the additional staff that may be necessary to coordinate the captioning process. Indeed, these start-up costs alone are likely to be significantly greater than that necessary to establish and implement an ENR system. *See id.* ¶ 84, n.256. Moreover, the hourly charge does not reflect the expense of having captioners either at a remote location or locally "on standby" during emergencies to ensure that breaking news is captioned in real-time.

Until real-time captioning becomes widely available and more economical, it is very unlikely that broadcast stations could sustain the financial burden of providing real-time captioning and meet the Commission's timetable for the captioning of new programming. Permitting broadcasters to use available and less expensive captioning technologies such as ENR to caption emergency information will enable program providers to caption increased amounts of video programming, including news programming, in accordance with the Commission's captioning timetable. This approach also will allow the further development of real-time captioning as a viable alternative to the ENR methodology.

C. Current FCC Rules Ensure Viewer Accessibility to Emergency Information.

Current FCC rules require broadcasters to transmit emergency information in a manner that is accessible to all viewers. Accordingly, real-time captioning is wholly unnecessary to ensure program accessibility.

Section 73.1250 of the Commission's Rules requires all television broadcasters to transmit emergency information both aurally and visually with a legible message conveying the necessary information. 47 C.F.R. § 73.1250 (1996). Broadcasters are permitted to

utilize a variety of methods to transmit emergency information, including electronic captioning, slides, and mechanical printing processes. *Id.* There has been no indication that such methods are insufficient to provide emergency information effectively or that broadcasters are not transmitting such information in compliance with the rule.

The Commission's rules governing participation in the Emergency Alert System ("EAS") also are specifically designed to ensure that emergency alert messages are accessible to hearing-impaired viewers. Television stations are required to transmit a visual message and if the message is a video crawl, the text must be displayed at a location on the television screen where it will not interfere with other video messages. 47 C.F.R.

§ 11.51(d).^{3/}

In the *Further Notice*, the Commission expressed concern that EAS does not provide viewers sufficient access to local and regional emergencies because broadcasters are only required to use EAS in national emergencies. *Further Notice* ¶ 8. However, the evidence of broadcasters' use of EAS, and its predecessor, the Emergency Broadcast System ("EBS"), in local and regional emergencies makes it clear that there is no basis for the Commission's concern. Although broadcasters are only required to use EAS in national emergencies, each state has an EAS plan and numerous broadcast stations voluntarily and actively participate in such plans on the state and local levels. As the Commission noted in its *Report and Order*

^{3/} Cable systems also are now required to provide audio and video EAS messages on all channels or an equivalent function that would alert deaf or hard-of-hearing viewers. *Id.* § 11.51(g).

adopting the EAS rules, although there has never been an activation of the EBS for a national emergency,

[m]ore than 20,000 activations of the EBS have been reported since 1975, and every state and territory have used it. State and Local Emergency Communications Committees are responsible for the development of plans which detail procedures for stations and officials to follow for activation of the EBS. Broadcast stations have voluntarily made increasing use of EBS since the system was allowed to be used for local emergencies.

Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency

Broadcast System, Report and Order, FO Dockets 91-301, 91-171, 10 FCC Rcd 1786, 1790 (1994). The Commission further emphasized that its figure of 20,000 activations included only those activations voluntarily reported and that it believed that "thousands of additional alerts have been issued." *Id.* n.7. Thus, it is clear that broadcasters use EAS on a routine basis to provide viewers critical information concerning local and regional emergencies.

In sum, given the substantial level of broadcaster participation in local and state EAS systems and the Commission's stringent requirements for the visual transmission of EAS and other emergency information, it is simply unnecessary to require that emergency messages be real-time captioned as well.

D. Conclusion.

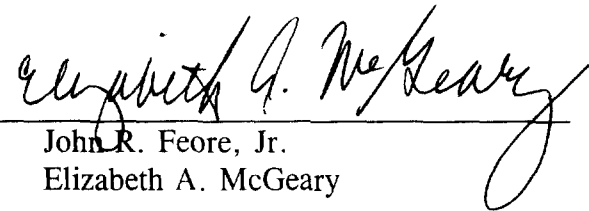
Real-time captioning is neither a feasible nor effective means of ensuring that hearing-impaired viewers have access to emergency information in video programming. The cost of providing a real-time captioning service is not within the financial reach of many broadcasters. And, if broadcasters are required to make such a significant investment at the beginning of the captioning transition period, the captioning of other new programming is

likely to be substantially delayed to the detriment of hearing impaired viewers. Finally, emergency information is currently fully accessible to hearing-impaired viewers through the visual transmission of EAS and other emergency messages.

Based upon the foregoing, Paxson respectfully urges the Commission not to require real-time captioning for emergency information programming.

Respectfully submitted,

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